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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2836 of 2000

to

FIRST APPEAL No 2843 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SPL.LAQ OFFICER

Versus

MADABHAI MATHURBHAI PARMAR

Appearance:

GOVERNMENT PLEADER for the appellant
Mr.Kamlesh Sheth for the respondents

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 07/12/2000

ORAL(COMMON)JUDGEMENT

Admit. Heard learned advocates for the parties.

At the request of the learned advocates the appeals are finally heard today.

2. These eight appeals have been filed against the judgment dated 30.11.1999 passed by the 5th Joint Civil Judge (SD) Godhra in Land Acquisition Reference Nos 97 to 104/96. In view of the fact that a common judgment has been challenged in these eight appeals, by this common judgment, all the eight appeals are being disposed of.

3. For the purpose of Narmada Irrigation project, lands situated at village Vitoj had been acquired by the State of Gujarat. The relevant facts pertaining to the said acquisition are as under:

3.1 Notification under section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") was issued on 16th June, 1992 whereas section 6 notification under the Act was issued on 12.3.1993. The Land Acquisition Officer had awarded a sum of Re.1.20ps per Sq.Mtr as compensation to the claimants. As the claimants were aggrieved by the said amount, they filed reference applications under section 18 of the Act and ultimately the 5th Joint Civil Judge (SD) Godhra had increased the amount of compensation by Rs.14.80ps per Sq.Mtr and had awarded compensation at the rate of Rs.16/-per Sq.Mtr. Being aggrieved by the said judgment, the State has filed the present appeals.

4. The learned Asst.Govt.Pleader has drawn my attention to the mistake committed by the trial court which is patent in the judgment. While increasing the amount of compensation, the trial court had considered the judgment of this court delivered in First Appeal No.96/83. A Copy of the said judgment has also been exhibited at Exh.16. According to the judgment referred to hereinabove, a sum of Rs.9/-per Sq.Mtr had been awarded for the land acquired by the Government situated at village Kadachala, Taluka Halol. It is not in dispute that for the purpose of valuation of the land in question, the land situated at Kadachala can be compared and the value which was fixed for the land at Kadachala can be looked into for the purpose of determination of value of the land situated at the village Vetoj.

5. The land at Kadachala was valued at Rs.9/-per Sq.Mtr as on 31.1.1988 by this court under the judgment referred to hereinabove. Section 4 notification was issued on 31.1.1988 so far as the acquisition of the land at Kadachala is concerned.

6. It is not in dispute that on account of inflationary trend in the country normally price of land increases by about 10% every year. The said theory is well accepted and is not disputed by the learned advocates also. In the circumstances, for the purpose of determining the value of land situated at Vetoj, one has to look at the valuation of land situated at Kadachala as on 31.1.1988. The land at village Vetoj had been acquired under notification dated 16th June 1992 i.e. after four years after the date on which the land at Kadachala had been acquired. If the land at Kadachala is valued at Rs.9/-per Sq.Mtr in 1988, value of land at Vetoj in 1992, i.e. after four years would be 40% more. Thus, by adding Rs.3.60ps to Rs.9/-, we may arrive at Rs.12.60ps per Sq.Mtr. for valuing the land situated at village Vetoj in 1992, when the notification under section 4 under the Act was published.

7. My attention has been drawn by the Ld.AGP to the contents of para 10 of the impugned judgment. The learned judge has fully considered the judgment of this court referred to hereinabove, but has made a small mistake while considering the notification issued under section 4 of the Act. In fact, section 4 notification in relation to land situated at village Kadachala was issued on 31.1.1988, but through mistake, the court below has considered 2nd June, 1986 as the date of issuance of notification under section 4 of the Act for the acquisition of land situated at village Kadachala. By committing the said mistake, the trial court has valued the land situated at village Vetoj at Rs.16/-per Sq.Mtr.

8. In view of the fact that because of the mistake, the trial court has arrived at incorrect valuation of the land in question, it would be just and proper to award a sum of Rs.12.60ps.per Sq.Mtr for the land situated at village Vetoj. Needless to say that the value of the land which is the subject matter of these appeals would be Rs.12.60ps and the claimants would be entitled to all other benefits under the Act on the basis of the said valuation.

9. In the circumstances, the appeals are partly allowed and the judgment and decree dated 30.11.1999 is quashed and set aside. Appropriate decree shall be drawn on the basis of the valuation of the land referred to hereinabove.

10. It is hoped that the amounts payable to the claimants would be paid to them within three months from today.

7.12.2000 (A.R.DAVE,J)